

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.07.2016

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE R.MAHADEVAN

W.P. No.25408 of 2016
and W.M.P.No.21728 of 2016

1.P.Gokulraj
2.P.Balakrishnan
3.A.D.Selvaraj
4.G.Somasundaram .. Petitioners

-vs-

1.The State Human Rights Commission,
Tamil Nadu, Rep. By its Registrar,
No.143, P.S.Kumarasamy Raja Salai,
(Greenways Road), Chennai 600 028.

2.The Senior Civil Judge / Assistant
Registrar (Law), The State Human
Rights Commission, Tamil Nadu,
No.143, P.S.Kumarasamy Raja Salai,
(Greenways Road), Chennai 600 028.

3.K.Vetrivelraman .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus to call for the records relating to SHRC Case No.2794 of 2013/C2 on the file of the 1st respondent herein and quash the findings of the 2nd respondent herein dated 21.06.2016 for returning the applications dated 20.06.2016 filed by the petitioners under Order 9 Rule 13 of CPC to set aside the ex parte recommendations of the 1st respondent herein dated 13.05.2016 and consequently direct the 2nd respondent herein to accept the applications dated 20.06.2016, number the same and place it before the 1st respondent herein for its consideration.

For Petitioner : Mr.M.Deivanandam
For Respondents : Mr.S.T.S.Murthi,
Govt. Pleader, assisted by
Mr.V.Shanmugasundar, G.A.

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O R D E R

(Order of the Court was made by The Hon'ble Chief Justice)

The petitioner was the respondent in a complaint filed before the State Human Rights Commission. The petitioner defended the proceedings and when the occasion came to cross examine the witnesses, three opportunities were given to the petitioner, which he failed to avail of. On the fourth date, on 26.11.2015, he failed to appear and was proceeded ex parte and orders were reserved and thereafter, pronounced.

2.The petitioner, at the relevant stage of time, took no steps to move the Court explaining his absence on 26.11.2015, but moved an application under Order 9 Rule 13 of the Code of Civil Procedure, 1908, only on 20.06.2016. This was after the orders were pronounced on 13.05.2016.

3.The application was returned with the endorsement that since there was no ex parte order or decree passed by the Commission, provision of Order 9 Rule 13 of CPC would not apply.

4.It is this order of the Registry which is now sought to be assailed by filing the writ petition under Article 226 of the Constitution of India.

5.In our view, such a remedy would not be available to the petitioner. The recommendations have already been made and it is for the State Government now to accept the recommendations or not. Only if the recommendations are accepted, would the occasion arise for the petitioner to assail the substantive order, where all grounds can be taken, under Article 226 of the Constitution of India, in view of the judgment of the Division Bench of this Court in Sankar vs. The Member, State Human Rights Commission, 2016 SCC Online Mad 42, (W.P.No.25614 of 2010 decided on 27.01.2016).

6.The persistence of the counsel for the petitioner compels us to observe that in so far as the State Commission was concerned, there were three opportunities given, which the petitioner failed to avail of and it is only after the fourth opportunity when he failed to appear that the proceedings were closed. The petitioner took no steps at that stage to give any logical explanation for his absence, sufficient opportunities having been granted to him.

7. In view of the aforesaid reasons, we do not find any merit in the writ petition. Writ petition is, accordingly, dismissed. No costs. Consequently, W.M.P.No.21728 of 2016 is also dismissed.

sra

s/d-

Assistant Registrar (CS-VII)

True Copy

Sub-Assistant Registrar

To

1. The Registrar,
State Human Rights Commission,
Tamil Nadu, No.143, P.S.Kumarasamy
Raja Salai, (Greenways Road),
Chennai 600 028.

2. The Senior Civil Judge / Assistant
Registrar (Law), The State Human
Rights Commission, Tamil Nadu,
No.143, P.S.Kumarasamy Raja Salai,
(Greenways Road), Chennai 600 028.

+ 1 cc to Mr.M.Deivanandam, Advocate SR 41361

+ 1 cc to Govt.Pleader SR 41586

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W.P.No.25408 of 2016

सत्यमेव जयते

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